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HOUSE BILL 908

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Teresa A. Zanetti

AN ACT

**RELATING TO CHARTER SCHOOLS; PROVIDING SHORTER TIME FRAMES FOR
THE APPROVAL OR DENIAL OF CHARTER SCHOOL APPLICATIONS AND
APPEALS FROM THE DETERMINATIONS OF LOCAL SCHOOL BOARDS;
PROVIDING SPECIFIC TIME FRAMES AND CRITERIA FOR REVOKING OR
FAILING TO RENEW A CHARTER SCHOOL; AUTHORIZING A LARGER NUMBER
OF CHARTER SCHOOLS; PROVIDING THAT A PORTION OF THE STATE
DISTRIBUTION PURSUANT TO THE PUBLIC SCHOOL CAPITAL IMPROVEMENTS
ACT BE ALLOCATED TO CHARTER SCHOOLS.**

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**Section 1. Section 22-8B-6 NMSA 1978 (being Laws 1999,
Chapter 281, Section 6) is amended to read:**

**"22-8B-6. CHARTER SCHOOL REQUIREMENTS-- APPLICATION
PROCESS-- AUTHORIZATION. --**

A. The local school board shall have the authority

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1 to approve the establishment of a charter school within the
2 [~~local~~] school district in which it is located.

3 B. A charter school applicant shall apply to a
4 local school board for a charter. An applicant shall only
5 submit an application in the district in which the school is
6 located. Applications shall be submitted by [~~October~~] March 1
7 to be eligible for consideration for the following school year.
8 The [~~October~~] March 1 deadline may be waived upon agreement of
9 the applicant and the local school board.

10 C. An application for a start-up school may be made
11 by one or more teachers, parents or community members.

12 D. An application for a conversion school shall
13 include a petition of support signed by not less than sixty-
14 five percent of the employees in the school. Additionally, a
15 petition in support of the charter school signed by a majority
16 of the households whose children are enrolled in a proposed
17 conversion school must accompany the application.

18 E. The local school board shall receive and review
19 all applications for charter schools. The local school board
20 shall not charge application fees. If the local school board
21 finds the charter school application is incomplete, the local
22 school board shall request the necessary information from the
23 charter applicant.

24 F. The local school board shall hold at least one
25 meeting to obtain information and community input to assist the

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1 local school board in its decision whether to grant a charter
2 school application. The local school board shall rule on the
3 application for a charter school in a public meeting within
4 [~~sixty~~] thirty days after receiving the application. If not
5 ruled upon within [~~sixty~~] thirty days, the charter application
6 will be automatically reviewed by the state board in accordance
7 with the provisions of Section [~~7 of the 1999 Charter Schools~~
8 ~~Act~~] 22-8B-7 NMSA 1978. The charter applicant and the local
9 school board may, however, jointly waive the deadlines set
10 forth in this section.

11 G. If the local school board denies a charter
12 school application or imposes conditions that are unacceptable
13 to the charter applicant, the charter applicant may appeal the
14 decision to the state board pursuant to Section [~~7 of the 1999~~
15 ~~Charter Schools Act~~] 22-8B-7 NMSA 1978.

16 H. If a local school board denies a charter school
17 application, it shall state its reasons for the denial. If a
18 local school board grants a charter, it shall send a copy of
19 the approved charter to the department of education within
20 fifteen days after granting the charter."

21 Section 2. Section 22-8B-7 NMSA 1978 (being Laws 1999,
22 Chapter 281, Section 7) is amended to read:

23 "22-8B-7. CHARTER SCHOOL APPLICATION APPEAL--
24 PROCEDURES.--

25 A. The state board, upon receipt of a notice of

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1 appeal or upon its own motion, shall review decisions of any
2 local school board concerning charter schools in accordance
3 with the provisions of this section.

4 B. A charter applicant or governing body of a
5 charter school that wishes to appeal a decision of a local
6 school board concerning the denial, nonrenewal or revocation of
7 a charter school or the imposition of conditions that are
8 unacceptable to the charter school or charter school applicant
9 shall provide the state board with a notice of appeal within
10 thirty days after the local school board's decision. The
11 charter school applicant or governing body of the charter
12 school bringing the appeal shall limit the grounds of the
13 appeal to the grounds for denial, nonrenewal or revocation
14 specified by the local school board. The notice shall include
15 a brief statement of the reasons the charter school applicant
16 contends the local school board's decision was in error. The
17 appeal and review process shall be as follows:

18 (1) within [~~sixty~~] thirty days after receipt
19 of the notice of appeal, the state board, at a public hearing
20 that may be held in the school district in which the proposed
21 charter school has applied for a charter, shall review the
22 decision of the local school board and make its findings. If
23 the state board finds that the local school board's decision
24 was contrary to the best interests of the students, school
25 district or community, the state board shall remand the

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1 decision to the local school board with written instructions
2 for approval of the charter. The instructions shall include
3 specific recommendations concerning approval of the charter.
4 The decision of the state board shall be final and not subject
5 to appeal; and

6 (2) within [~~thirty~~] ten days following the
7 remand of a decision by the state board, the local school
8 board, at a public hearing, shall approve the charter.

9 C. The state board, on its own motion, may review a
10 local school board's decision to grant a charter. Within
11 [~~sixty~~] thirty days after the making of a motion to review by
12 the state board, the board, at a public hearing that may be
13 held in the district in which the proposed charter school has
14 applied for a charter, shall review the decision of the local
15 school board and determine whether the decision was arbitrary
16 and capricious or whether the establishment or operation of the
17 proposed charter school would:

18 (1) violate any federal or state laws
19 concerning civil rights;

20 (2) violate any court order;

21 (3) threaten the health and safety of students
22 within the school district; or

23 (4) violate the provisions of Section [~~41 of~~
24 ~~the 1999 Charter Schools Act~~] 22-8B-11 NMSA 1978, prescribing
25 the permissible number of charter schools.

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1 D. If the state board determines that the charter
2 would violate the provisions set forth in Subsection C of this
3 section, the state board shall remand the decision to the local
4 school board with instructions to deny the charter application.
5 [~~The state board may extend the time lines established in this~~
6 ~~section for good cause.~~] The decision of the state board shall
7 be final and not subject to appeal."

8 Section 3. Section 22-8B-11 NMSA 1978 (being Laws 1999,
9 Chapter 281, Section 11) is amended to read:

10 "22-8B-11. CHARTER SCHOOLS--MAXIMUM NUMBER ESTABLISHED.--

11 A. Local school boards shall authorize the approval
12 of both conversion and start-up charter schools within their
13 school districts.

14 B. No more than [~~fifteen~~] twenty start-up schools
15 and [~~five~~] ten conversion schools may be established per year
16 statewide. The number of charter school slots remaining in
17 that year shall be transferred to succeeding years up to a
18 maximum of [~~seventy-five~~] one hundred start-up schools and
19 [~~twenty-five~~] fifty conversion schools in any five-year period.
20 The state board shall promptly notify the local school board of
21 each school district when the limits set forth in this section
22 have been reached."

23 Section 4. Section 22-8B-12 NMSA 1978 (being Laws 1999,
24 Chapter 281, Section 12) is amended to read:

25 "22-8B-12. CHARTER SCHOOLS--TERM--RENEWAL OF CHARTER--

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1 **GROUNDS FOR NONRENEWAL OR REVOCATION. --**

2 A. A charter school may be approved for an initial
3 term of five years. A charter may be renewed for successive
4 periods of five years each. Approvals of less than five years
5 can be agreed to between the charter school and the local
6 school board.

7 B. No later than [~~January 1~~] July 1 of the year
8 prior to the year in which the charter expires, the governing
9 body of a charter school may submit a renewal application to
10 the local school board. The local school board shall rule in a
11 public hearing on the renewal application no later than March 1
12 of the year in which the charter expires, or on a mutually
13 [~~agreed~~] agreed-upon date.

14 C. A charter school renewal application submitted
15 to the local school board shall contain:

16 (1) a report on the progress of the charter
17 school in achieving the goals, objectives, student performance
18 standards, state board minimum educational standards and other
19 terms of the initial approved charter application, including
20 the accountability requirements set forth in Section 22-1-6
21 NMSA 1978;

22 (2) a financial statement that discloses the
23 costs of administration, instruction and other spending
24 categories for the charter school that is understandable to the
25 general public, that will allow comparison of costs to other

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1 schools or comparable organizations and that is in a format
2 required by the state board;

3 (3) contents of the charter application set
4 forth in Section [~~8 of the 1999 Charter Schools Act~~] 22-8B-8
5 NMSA 1978;

6 (4) a petition in support of the charter
7 school renewing its charter status signed by not less than
8 sixty-five percent of the employees in the charter school; and

9 (5) a petition in support of the charter
10 school renewing its charter status signed by a majority of the
11 households whose children are enrolled in the charter school.

12 D. A charter may be revoked or not be renewed by
13 the local school board only if the board determines that the
14 charter school did any of the following:

15 (1) committed a material violation of any of
16 the conditions, standards or procedures set forth in the
17 charter;

18 (2) failed to meet or make substantial
19 progress toward achievement of the state board minimum
20 educational standards or student performance standards
21 identified in the charter application;

22 (3) failed to meet generally accepted
23 standards of fiscal management; or

24 (4) violated any provision of law from which
25 the charter school was not specifically exempted.

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1 E. If a local school board revokes or does not
2 renew a charter, the local school board shall state in writing
3 its reasons for the revocation or nonrenewal.

4 F. A decision to revoke or not to renew a charter
5 may be appealed by the governing body of the charter school
6 pursuant to Section [~~7 of the 1999 Charter Schools Act~~] 22-8B-7
7 NMSA 1978. "

8 Section 5. Section 22-8B-13 NMSA 1978 (being Laws 1999,
9 Chapter 281, Section 13) is amended to read:

10 "22-8B-13. CHARTER SCHOOL FINANCING. --

11 A. The amount of funding allocated to the charter
12 school shall be not less than ninety-eight percent of the
13 school-generated program cost.

14 B. That portion of the state distribution from the
15 public school capital improvements fund pursuant to Section
16 22-25-9 NMSA 1978 that is generated by a program unit
17 attributable to a student attending a charter school shall be
18 allocated to that charter school.

19 [~~B.-~~] C. That portion of money from state or federal
20 programs generated by students enrolled in a charter school
21 shall be allocated to charter schools serving students eligible
22 for that aid. Any other public school program not offered by
23 the charter school shall not be entitled to the share of money
24 generated by a charter school program.

25 [~~C.-~~] D. All services centrally or otherwise

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1 provided by the [~~local~~] school district, including custodial,
2 maintenance and media services, libraries and warehousing shall
3 be subject to negotiation between the charter school and the
4 local school district. Any services for which a charter school
5 contracts with a school district shall be provided by the
6 district at a reasonable cost. "

7 Section 6. Section 22-25-7 NMSA 1978 (being Laws 1975
8 (S.S.), Chapter 5, Section 7, as amended) is amended to read:

9 "22-25-7. IMPOSITION OF TAX--LIMITATION ON
10 EXPENDITURES. --

11 A. If as a result of an election held in accordance
12 with the Public School Capital Improvements Act a majority of
13 the qualified electors voting on the question vote in favor of
14 the imposition of the tax, the tax rate shall be certified,
15 unless the local school board requests by resolution that a
16 rate be discontinued, by the department of finance and
17 administration at the rate specified in the resolution
18 authorized under Section 22-25-3 NMSA 1978 or at any lower rate
19 required by operation of the rate limitation provisions of
20 Section 7-37-7.1 NMSA 1978 upon the rate specified in the
21 resolution and be imposed at the rate certified in accordance
22 with the provisions of the Property Tax Code. The revenue
23 produced by the tax and, except as provided in Subsection B of
24 this section, any state distribution resulting to the district
25 under the Public School Capital Improvements Act shall be

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1 expended only for the capital improvements specified in the
2 authorizing resolution.

3 B. That portion of the state distribution from the
4 public school capital improvements fund pursuant to Section
5 22-25-9 NMSA 1978 that is generated by a program unit
6 attributable to a student attending a charter school shall be
7 allocated to that charter school."

8 Section 7. Section 22-25-9 NMSA 1978 (being Laws 1975
9 (S.S.), Chapter 5, Section 9, as amended) is amended to read:

10 "22-25-9. STATE DISTRIBUTION TO SCHOOL DISTRICT IMPOSING
11 TAX UNDER CERTAIN CIRCUMSTANCES. --

12 A. ~~[Except as provided in Subsection C of this~~
13 ~~section]~~ The state superintendent shall distribute to any
14 school district that has imposed a tax under the Public School
15 Capital Improvements Act an amount from the public school
16 capital improvements fund that is equal to the amount by which
17 the revenue estimated to be received from the imposed tax, at
18 the rate certified by the department of finance and
19 administration in accordance with Section 22-25-7 NMSA 1978,
20 assuming a one hundred percent collection rate, is less than an
21 amount calculated by multiplying the school district's first
22 forty-days' total program units by the dollar amount specified
23 in Subsection B of this section and further multiplying the
24 product obtained by the tax rate approved by the qualified
25 electors in the most recent election on the question of

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1 imposing a tax under the Public School Capital Improvements
2 Act. The distribution shall be made each year that the tax is
3 imposed in accordance with Section 22-25-7 NMSA 1978; provided
4 that no state distribution from the public school capital
5 improvements fund may be used for capital improvements to any
6 administration building of a school district. In the event
7 that sufficient funds are not available in the public school
8 capital improvements fund to make the state distribution
9 provided for in this section, the dollar per program unit
10 figure shall be reduced as necessary.

11 B. In calculating the state distribution pursuant
12 to Subsection A of this section, the following amounts shall be
13 used:

14 (1) fifty dollars (\$50.00) per program unit;

15 and

16 (2) for fiscal year 2005 and thereafter, an
17 additional amount certified to the state superintendent by the
18 public school capital outlay council. No later than
19 June 1, 2004 and each June 1 thereafter, the council shall
20 determine the amount needed in the next fiscal year for public
21 school capital outlay projects pursuant to the Public School
22 Capital Outlay Act and the amount of revenue, from all sources,
23 available for the projects. If, in the sole discretion of the
24 council, the amount available exceeds the amount needed, the
25 council may certify an additional amount pursuant to this

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1 paragraph; provided that the sum of the amount calculated
2 pursuant to this paragraph plus the amount in Paragraph (1) of
3 this subsection shall not result in a total statewide
4 distribution that, in the opinion of the council, exceeds one-
5 half of the total revenue estimated to be received from taxes
6 imposed pursuant to the Public School Capital Improvements Act.

7 ~~[D-]~~ C. In making distributions pursuant to this
8 section, the state superintendent shall include such reporting
9 requirements and conditions as are required by rule of the
10 public school capital outlay council. The council shall adopt
11 such requirements and conditions as are necessary to ensure
12 that the distributions are expended in the most prudent manner
13 possible ~~[and consistent with the original purpose as specified~~
14 ~~in the authorizing resolution]~~. Copies of reports or other
15 information received by the state superintendent in response to
16 the requirements and conditions shall be forwarded to the
17 council. "